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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------------|------------------|
| 10/600,853 | 06/20/2003 | Thomas Lich | 10191/3107 | 8481 |
| 26646 | 7590 | 09/14/2005 | | |
| KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004 | | | EXAMINER BEAULIEU, YONEL | |
| | | | ART UNIT 3661 | PAPER NUMBER |

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/600,853 | LICH ET AL. | |
| | Examiner | Art Unit | |
| | Yonel Beaulieu | 3661 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 August 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/2/05.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

Response to Arguments

Applicant's arguments filed 8/8/05 have been fully considered but they are not persuasive.

Applicant argues that any review of Yokota (USPN 6,463,372) makes plain that it does not ...even suggest a pedestrian-impact sensor. The Examiner disagrees because the very argued limitation is found in Yokota's col. 10, lines 41 – 67.

As to the argument regarding signals not being used for *triggering* an occupant restraining means, the Examiner agrees Yokota does not use the exact "triggering" term but maintains nevertheless Yokota does teach determining a restraining amount that requires triggering when considered in conjunction with item 11 (note col. 2, line 65 – col. 3, line 21 and col. 8, line 59 – col. 9, line 13 at least). It also noted that the Yokota reference does teach ECU 11 receiving more than two signals (as illustrated in fig. 3).

With regard to the argument concerning the secondary reference, it appears the references are being argued separately and really not for what the combination suggests to one having ordinary skill in the art at the time of the invention.

As to the arguments concerning claims 11 and 13 (last page), the Examiner is not readily clear as to what features the references fail to specifically address.

For at least the above reasons, the rejection is proper and maintained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 8, 12, and 14 – 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Yokota et al. (US 6,463,372 B1).

Regarding claim 1, Yokota et al. teaches a system (fig. 1 at least) for triggering at least one restraining device (seatbelt or airbag) comprising at least one non-pedestrian-impact sensor (10) for transmitting a first signal; at least one pedestrian-impact sensor for transmitting a second signal (col. 10, lines 41 – 67 at least); a processor (11) for receiving the first and second signals and being adapted to trigger the at least one restraining device (col. 8, lines 40 – 47 at least), wherein the at least one non-pedestrian-impact sensor includes an acceleration sensor (col. 11, lines 25 – 40 at least).

Regarding claims 2 - 10, 12, and 14 – 19, Yokota further teaches determination of crash severity (see figs. 4. 10a – 10c at least), one passenger weight sensor (81), an impact sensor being situated in a front and in a rear bumper of the vehicle (col. 1, lines 36 – 45 at least), one or peripheral side-impact/non-pedestrian sensor (fig. 3; col. 10, lines 63 at least), a deformation sensor (col. 11, lines 25 – 41 at least), an optical or an ultrasound or a radar sensor (col. 7, lines 42 – 50 at least), the restraining device including at least one of an airbag and belt tightener (note items 40 and 60 in fig. 2 at least), the restraining device being triggered in a gradual manner (see figs. 5a – 5c and 8a at least).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yokota ('372), as applied to claim 1, and further in view of Mattes et al. (US 6,487,482 B1).

As discussed above, Yokota teaches all of the limitations except for making the acceleration sensor a switch. However, Mattes teaches, in the same field of endeavor of triggering restraining devices, an acceleration sensor being a switch (col. 1, lines 24 – 37 at least).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Yokota's teaching by making the acceleration sensor a switch as evidenced by Mattes in order to guard against restraining devices false deployment; thus, enhancing safety.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yokota as applied to claim 1 (directly or indirectly).

Yokota teaches all of the limitations of claim 13 except for situating the impact sensor in a trim molding of the vehicle.

However, situating the impact sensor in a trim molding of the vehicle is an arrangement that would have been obvious to one of ordinary skill in the art at the time of the invention because the skilled artisan would have recognized the arrangement does not solve any stated problem in the art of deploying restraining devices.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yonel Beaulieu whose telephone number is (571) 272-6955. The examiner can normally be reached on M-W 9-3; F 9-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas BLACK can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


YONEL BEAULIEU
PRIMARY EXAMINER